

October 19, 2020

VIA FIRST CLASS MAIL & ELECTRONIC MAIL

Luly E. Massaro, Commission Clerk
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

**RE: Docket 4610 – The Narragansett Electric Company d/b/a National Grid
Electric Environmental Response Cost Report
Fiscal Year 2020
Responses to PUC Data Requests – Set 1**

Dear Ms. Massaro:

Enclosed please find one copy of National Grid's¹ responses to the First Set of Data Requests issued by the Public Utilities Commission (PUC) in the above-referenced docket. This filing is also accompanied by a Motion for Protective Treatment in accordance with Rule 1.3(H) of the Public Utilities Commission's (PUC) Rules of Practice and Procedure and R.I. Gen. Laws § 38-2-2(4)(B). The Company seeks protection from public disclosure certain terms in response to Data Request PUC 1-2 that are subject to a confidentiality provision and a non-disclosure agreement entered into by the Company. Accordingly, the Company has provided the PUC with one un-redacted copy of the confidential materials for its review and has otherwise included redacted copies of the filing.

¹ The Narragansett Electric Company d/b/a National Grid (National Grid or the Company).

Robinson+Cole

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Thank you for your attention to this filing. If you have any questions, please contact me at (401) 709-3337.

Sincerely,



Leticia C. Pimentel

Enclosures

cc: Docket 4610 Service List
John Bell, Division
Leo Wold, Division
Christy Hetherington, Esq.

Certificate of Service

I hereby certify that a copy of the cover letter and any materials accompanying this certificate was electronically transmitted to the individuals listed below.

The paper copies of this filing are being hand delivered to the Rhode Island Public Utilities Commission and to the Rhode Island Division of Public Utilities and Carriers.



Heidi J. Seddon

October 19, 2020

Date

**Docket No. 4610 – National Grid – Electric Environmental Response Fund
Service List as of 9/29/2020**

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RHODE ISLAND PUBLIC UTILITIES COMMISSION

The Narragansett Electric Company d/b/a)
National Grid Electric Environmental Response)
Cost Report for Fiscal Year 2020) Docket No. 4610
Quarterly Report)

**MOTION OF THE NARRAGANSETT ELECTRIC
COMPANY D/B/A NATIONAL GRID FOR PROTECTIVE
TREATMENT OF CONFIDENTIAL INFORMATION**

National Grid¹ hereby requests that the Rhode Island Public Utilities Commission (PUC) grant protection from public disclosure of certain confidential, competitively sensitive, and proprietary information submitted in this proceeding, as permitted by PUC Rule 810-RICR-00-00-1.3(H)(3) (Rule 1.3(H)) and R.I. Gen. Laws § 38-2-2(4)(B). The Company also hereby requests that, pending entry of that finding, the PUC preliminarily grant the Company’s request for confidential treatment pursuant to Rule 1.3(H)(2).

I. BACKGROUND

On September 25, 2020, the Company filed with the PUC its Electric Environmental Response Cost Report for Fiscal Year 2020 in PUC Docket No. 4610 (2020 Environmental Report). On October 19, 2020, the Company filed its responses to the PUC’s First Set of Data Requests relating to the 2020 Environmental Report. The Response to Data Request 1-2 discloses terms of a letter of intent that the Company has executed with Fortuitous Partners, LLC (Fortuitous, and together with the Company, the Parties) for the ground lease of a portion of the Tidewater site, located on Tidewater Street in Pawtucket, Rhode Island, including the annual rent. The letter of intent executed by the Parties includes a confidentiality provision and is also

subject to a separate non-disclosure agreement entered into by the Parties. The Company is seeking protective treatment with respect to the annual rent agreed upon, which is competitively sensitive information, not generally made public, and which the Parties have agreed to maintain in confidence by the very terms of the letter of intent and non-disclosure agreement.

Therefore, the Company requests that, pursuant to Rule 1.3(H), the PUC afford confidential treatment to the lease pricing information contained in its response to Data Request PUC 1-2.

II. LEGAL STANDARD

Rule 1.3(H) of the PUC's Rules of Practice and Procedure provides that access to public records shall be granted in accordance with the Access to Public Records Act (APRA), R.I. Gen. Laws § 38-2-1, *et seq.* Under APRA, all documents and materials submitted in connection with the transaction of official business by an agency is deemed to be a "public record," unless the information contained in such documents and materials falls within one of the exceptions specifically identified in R.I. Gen. Laws § 38-2-2(4). To the extent that information provided to the PUC falls within one of the designated exceptions to the public records law, the PUC has the authority under the terms of APRA to deem such information as confidential and to protect that information from public disclosure.

In that regard, R.I. Gen. Laws § 38-2-2(4)(B) provides that the following types of records shall not be deemed public:

Trade secrets and commercial or financial information obtained from a person, firm, or corporation which is of a privileged or confidential nature.

The Rhode Island Supreme Court has held that this confidential information exemption applies where the disclosure of information would be likely either (1) to impair the government's ability

¹ The Narragansett Electric Company d/b/a National Grid (National Grid or the Company).

to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained. *Providence Journal Company v. Convention Center Authority*, 774 A.2d 40 (R.I. 2001).

The first prong of the test is satisfied when information is provided to the governmental agency and that information is of a kind that would customarily not be released to the public by the person from whom it was obtained. *Providence Journal*, 774 A.2d at 47.

III. BASIS FOR CONFIDENTIALITY

The Company has redacted the lease amount agreed upon in order to comply with the confidentiality provision of the letter of intent and the non-disclosure agreement entered into by the Parties. Moreover, if such information were revealed, Fortuitous could be harmed in future negotiations with other parties and may be dissuaded from transacting future business with National Grid. For these reasons, the Company would not customarily release this information to the public. *See Providence Journal*, 774 A.2d at 47. The absence of confidential treatment would negatively influence the Company's ability to negotiate with these and other similar companies. Accordingly, the Company seeks protection for such confidential information.

IV. CONCLUSION

For the foregoing reasons, the Company respectfully requests that the PUC grant its Motion for Protective Treatment of Confidential Information.

Respectfully submitted,

**THE NARRAGANSETT ELECTRIC
COMPANY d/b/a NATIONAL GRID**

By its attorney,

Leticia Pimentel

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The Narragansett Electric Company
d/b/a National Grid
RIPUC Docket No. 4610
In Re: National Grid's Environmental Response
Fund Provision Fiscal Year 2020 Report
Responses to the Commission's First Set of Data Requests
Issued on September 28, 2020

PUC 1-1

Request:

Is National Grid in negotiations to sell or lease the Tidewater property in Pawtucket? If the answer is yes, please explain the process that led to the negotiations and indicate the current status of the negotiations.

Response:

Yes. The Narragansett Electric Company d/b/a National Grid (the "Company") is in negotiations to ground lease a portion of the Tidewater site (the "Leased Premises") to Fortuitous Partners, LLC or its affiliate. The remainder of the site will continue to be used for utility infrastructure. Since 2015, the Company has participated in discussions with the City of Pawtucket and other stakeholders regarding the potential development of a portion of the Tidewater site together with the adjacent City-owned property in connection with the City of Pawtucket's Master Plan for the waterfront area of Pawtucket. In 2018, the City of Pawtucket in conjunction with Rhode Island Commerce solicited bids for the opportunity to develop the City-owned property and a portion of the Tidewater site. In December 2019, the City of Pawtucket announced that Fortuitous Partners, LLC was the successful bidder. In March 2020, National Grid and Fortuitous Partners began negotiating a letter of intent to set forth the proposed terms and conditions of a ground lease for the Leased Premises. In July of 2020, National Grid and Fortuitous Partners, LLC executed a non-binding letter of intent for the ground lease of the Leased Premises. The Letter of Intent provides for the execution of a ground lease in June 2021 after final design is mutually agreed upon and the necessary permits have been obtained by Fortuitous Partners, LLC.

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REDACTED

PUC 1-2

Request:

To the extent that negotiations have resulted in an agreement in principle on the pricing and terms of any sale or lease, please disclose the pricing and describe the process that National Grid used to arrive at the pricing. If there has been no agreement in principle, please explain the process that will be used to ensure the Company receives fair market value for the sale or lease of the Tidewater property that can be credited against remediation costs recovered from ratepayers.

Response:

The Company and Fortuitous Partners, LLC ("Fortuitous") have executed a non-binding letter of intent for the ground lease of a portion of the Tidewater site (the "Leased Premises") for an initial term of 50 years, with options to extend the term for two consecutive periods of 25 years each. As part of the Company's due diligence process with respect to real estate transactions, the Company obtained an appraisal from an independent third party appraiser, Integra Realty Resources ("Integra"), a professional, MAI accredited and national recognized commercial real estate appraisal firm, to determine the fair market rent for the Leased Premises for the Company's negotiations with Fortuitous. Integra's appraisal report is based on the sale and income approach for similar properties used for similar purposes in New England, as well as in the tri-state and mid-Atlantic regions (since there were limited comparable sites in New England). After negotiations, the Company and Fortuitous, LLC agreed to an annual base rent for the initial term [REDACTED].

The Narragansett Electric Company d/b/a
National Grid
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PUC 1-3

Request:

Please update the total amount spent to remediate the Tidewater property to date and what remains to be spent on remediation. Please explain any differences from any previous estimates.

Response:

The total amount the Company has spent to remediate the Tidewater site is \$2,277,025 through September 30, 2020, for its electric operations.¹ While the Company conducted investigation activities on the entire site and designed the site-wide remedy, the Company was able to remediate certain limited areas of the Tidewater site. These previous remediation activities included the demolition and removal of several former Manufactured Gas Plant structures, including former gas holders and buildings, and the capping of an area on the southern portion of the site that had been exposed due to erosion. In addition, these costs include disposal of wastes generated during the environmental response actions conducted to date.

The current remedial construction estimate for the Rhode Island Department of Environmental Management-approved total site-wide remedy is \$27.575 million, of which \$22.06 million is the amount allocable to the Company's electric operations. The site-wide remediation project will consist of excavation and off-site disposal of source materials from three areas, installation of ground surface caps over the majority of the site and fencing around the perimeter of the site to mitigate direct contact with site soils, installation of a subsurface steel sheet pile containment wall and revetments to mitigate the potential migration of coal tar, and installation of recovery wells to remove coal tar from the subsurface.

The site-wide remediation project will be conducted in two phases to coordinate the work with a Company substation upgrade project, a Narragansett Bay Commission sewer line upgrade project, and the Fortuitous Partners redevelopment project. Coordinating the work with these other projects will result in increased efficiencies and lower costs, as these areas will only need to undergo construction once. Bids received from contractors on October 5, 2020, in response to a Request for Proposals ("RFP") for the first phase of the remediation project currently are under review. The RFP for phase two likely will be issued to contractors in the spring 2021. The Company will be able to evaluate any differences between the total project estimate and expected total project costs at that time.

¹ The Tidewater site investigation and remediation costs are allocated 80 percent to the electric operations and 20 percent to the gas operations of the Company.

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d/b/a National Grid
RIPUC Docket No. 4610
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Issued on September 28, 2020

PUC 1-4

Request:

RIPUC No. 2173 (Environmental Response Fund Provision) states, "Any applicable insurance proceeds and any net gains (after transaction costs) associated with the sale or lease of land listed in section (D) shall be credited to the fund." If National Grid plans to sell or lease the Tidewater property, how will the proceeds be credited to the Environmental Response Fund (please explain any differences between a sale or lease)?

Response:

In the event the Company leases the Tidewater property, the lease payments received would be credited to the Environmental Response Fund (Electric) and the Distribution Adjustment Clause (Gas)(the "DAC"). As environmental costs are allocated 80 percent to Narragansett Electric and 20 percent to Narragansett Gas, the lease proceeds would be allocated to electric and gas at the same percentages.

If the Tidewater property were sold, any gain from the sales transaction, net of any transaction costs, would be credited to the Environmental Response Fund and the DAC, using the same 80 percent/20 percent allocation. Any loss on the sale of such property would be retained by the Company.